

CIVIL COMPLAINT FORM TO BE USED BY A *PRO SE* PRISONER

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Marvin "Running River" Banks ND5137 :
Full Name of Plaintiff Inmate Number :
: Civil No. _____
v. : (to be filled in by the Clerk's Office)
: :
Reverend Ulli Klemm :
Name of Defendant 1 individual and official capacity : Demand for Jury Trial
 No Jury Trial Demand
Michael Wenerowicz :
Name of Defendant 2 individual and official capacity :
Name of Defendant 3 : **FILED**
HARRISBURG, PA
AUG 03 2020
PER MW
DEPUTY CLERK
Name of Defendant 4 :
Name of Defendant 5 :
(Print the names of all defendants. If the names of all
defendants do not fit in this space, you may attach
additional pages. Do not include addresses in this
section). :
:

I. NATURE OF COMPLAINT

Indicate below the federal legal basis for your claim, if known.

Civil Rights Action under 42 U.S.C. § 1983 (state, county, or municipal defendants)
 Civil Rights Action under Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971) (federal defendants)
 Negligence Action under the Federal Tort Claims Act (FTCA), 28 U.S.C. § 1333, against the United States

II. ADDRESSES AND INFORMATION

A. PLAINTIFF

Banks Marvin "Running River"

Name (Last, First, MI)

ND5137

Inmate Number

SCI Benner

Place of Confinement

301 institution Dr.

Address

Bellfonte P.A. 16823

City, County, State, Zip Code

Indicate whether you are a prisoner or other confined person as follows:

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner

B. DEFENDANT(S)

Provide the information below for each defendant. Attach additional pages if needed.

Make sure that the defendant(s) listed below are identical to those contained in the caption. If incorrect information is provided, it could result in the delay or prevention of service of the complaint.

Defendant 1:

Rev. Klem Ulli

Name (Last, First)

(Bureau of Treatment Services) designee.

Current Job Title

D.O.C. 1920 technology parkway

Current Work Address

Mechanicsburg P.A. 17050

City, County, State, Zip Code

Defendant 2:

Wenerowicz Michael

Name (Last, First)

Regional Deputy Secretary

Current Job Title

Department of Corrections 1920 Technology Parkway.

Current Work Address

Mechanicsburg P.A. 17050.

City, County, State, Zip Code

Defendant 3:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 4:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

Defendant 5:

Name (Last, First)

Current Job Title

Current Work Address

City, County, State, Zip Code

III. STATEMENT OF FACTS

State only the facts of your claim below. Include all the facts you consider important. Attach additional pages if needed.

A. Describe where and when the events giving rise to your claim(s) arose.

On January 22, 2020 defendants Rev. Ulli Klemm and Michael Wenerowicz collectively denied my religious accommodations request for Sacred Bundle so I as a native american can pray, their decision violates the 14th amendment equal protection clause because all other faiths can pray and Religious land use and institutionalized persons act.

B. On what date did the events giving rise to your claim(s) occur?

January 22, 2020 see attached accommodation denial.

Administrative remedies exhausted.

C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?)

on 9-24-19 I placed a religious accommodation to have My Native American Sacred bundle Formed because with out it I cannot pray at all compared equally to that of other religions, on January 22, 2020 Reverend Ulli Klemm and Michael Wenerowicz who also is a non native denied my religious accommodation which is in violation of the 14th amendment because other faith groups get what they need to pray but now I a native american cannot. Also this denial violates Religious land use institutionalized persons act because they have substantially burdened my religious practice and they state a least restrictive means that is not valid regarding the specific religious practice which is Sacred Bundles, defendants state the least restrictive means is to purchase a medicine bag which is a totally different practice that's unacceptable as stated by Holt V. Hobbs citing Holt 135 S. Ct. at 862 in which the court asks whether the government has substantially burdened the (specific) religious practice at issue. Id. at 862. also spratt V. Rhode Island Dept of corr. 487 F.3d 33, 39 (1st Cir. 2007)

IV. LEGAL CLAIM(S)

You are not required to make legal argument or cite any cases or statutes. However, state what constitutional rights, statutes, or laws you believe were violated by the above actions. If you intend to assert multiple claims, number and set forth each claim in separate paragraphs. Attach additional pages if needed.

Defendants are liable for violating the 14th amendment equal protection clause and 3rd Religious land use and institutionalized persons act (RLUIPA) and are not protected by qualified immunity for a reasonable person would have and should have known that by denying me this request for sacred bundle in which I've given them proof that I am a Native American would not be able to pray. "See Religious accommodation request."

I've exhausted my administrative remedies filed grievance to the final stage
District court has total jurisdiction over this case

V. INJURY

Describe with specificity what injury, harm, or damages you suffered because of the events described above.

I've suffered mental anguish and have not been able to adequately rehabilitate myself thoroughly because I am not allowed a crucial rehabilitative tool which is my religion. I've attempted suicide and am now on anxiety/depression medication.

VI. RELIEF

State exactly what you want the court to do for you. For example, you may be seeking money damages, you may want the court to order a defendant to do something or stop doing something, or you may be seeking both types of relief. If you are seeking monetary relief, state your request generally. Do not request a specific amount of money.

I want the court to fine both defendants and have the D.O.C. give me permission to form my sacred bundle so I can pray. I also want 100,000 for this religious discrimination and intrusion

and for court to mandate the D.O.C. To place a Native American representative on the BTS board.

236



04/30/2020 10:09

Final Appeal Decision Dismissal

FB

Secretary's Office of Inmate Grievances & Appeals
 Pennsylvania Department of Corrections
 1920 Technology Parkway
 Mechanicsburg, PA 17050

| | | | |
|--------------|-----------------|--------------|-----------------|
| Inmate Name: | BANKS, MARVIN | DOC #: | ND5137 |
| SCI Filed: | Benner Township | Current SCI: | Benner Township |
| Grievance #: | 849423 | | |

This serves to acknowledge receipt of your appeal to final review for the grievance identified above. In accordance with the provisions of DC-ADM 804, Inmate Grievance System Policy, this Office has reviewed all documents provided as part of the grievance record. Upon consideration of the entire record, it is the decision of this office to dismiss your appeal to final review due to a failure to comply with the provisions of the DC-ADM 804, as specified below.

Decision: Dismiss

Your grievance is being dismissed at the final appeal level for the reason(s) outlined below.

Rationale:

- You have not provided this Office with required and/or legible documentation for proper review.

Response:

You failed to provide a legible copy of your initial grievance and a copy of your appeal to the Facility Manager.

Signature:

Name:

D. Varner

Title:

Chief Grievance Officer

Date:

4/30/20

cc: DC-15/Superintendent - Benner Township
 Grievance Office

Feather/increase

and sacred bundles.

remedies
 exhausted.

DC-ADM 804, Inmate Grievance System Procedures Manual

Section 2 - Appeals, Attachment 2-G

Issued: 1/26/2016 Effective: 2/16/2016

ND5137 Grievance #:849423

BANKS, MARVIN

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VII. SIGNATURE

By signing this complaint, you represent to the court that the facts alleged are true to the best of your knowledge and are supported by evidence, that those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

Local Rule of Court 83.18 requires *pro se* plaintiffs to keep the court informed of their current address. If your address changes while your lawsuit is being litigated, you must immediately inform the court of the change in writing. By signing and submitting the complaint form, you agree to provide the Clerk's Office with any changes to your address where case-related papers may be served, and you acknowledge that your failure to keep a current address on file with the Clerk's Office may result in dismissal of your case.



Signature of Plaintiff

7-29-20

Date

Marvin Banks # ND5137
SCI Benner
301 Institution Dr.
Bellefonte, PA 16823

exhibit A

Copy for send
to lawyers

Religious Accommodation Request Form

Each inmate seeking a religious accommodation – other than a Religious Diet – must submit a Religious Accommodation Request Form in order for the request to be considered. Requests on behalf of a group of inmates are not accepted. Identical requests may be grouped by the FCPD who may prepare one response. To request a Religious Diet, complete a Religious Diet Request Form (4-B)

| | | | |
|--|--------------------|---|---|
| LAST Name: Banks | FIRST Name: Marvin | DOC # NBS137 | SCI: Beemer |
| Name of Religion: Native | Housing Unit: G1-A | DC inmate? (circle) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> | AC inmate? (circle) Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| <p>A. Which accommodation are you seeking for religious reasons? (check all that apply)</p> <input type="checkbox"/> Holy Day Accommodation <input type="checkbox"/> Separate Group Meeting <input type="checkbox"/> Religious Article <input checked="" type="checkbox"/> Other | | | |

B. Summarize the accommodation you are requesting.

I need your permission so I can be allowed to form my sacred personal bundles

C. Explain the key teachings and practices of your faith that prompt this request.

all natives practice give away which we are given things from elders or special people or even the spirits which are sacred to us and get put in your personal bundle. I need your permission first to be able to give and secondly to have things to give

D. Describe how you practice your faith in prison.

I'm only allowed to pray on mondays. I do not have personal pipe or drum and cant burn herbs in my cell so there for I'm not allowed to pray or practice except on mondays.

E. List any religious book references/sources and attach any additional documentation or explanations which support your request.

See attached were it says personal bundles contain your drum a rock your colors a feather, a staff, a rattle and your pipe but tobacco first and religious land use institutionalized persons act least restrictive means

Inmate Signature:

Marvin Banks

FCPD Signature:

GMJL

9/24/2019
Date request prepared by inmate

9/26/2019
Date request rec'd by FCPD

9/26/2019 Inmate sent a copy of this form so he/she knows request was received.
Date FCPD Initials



Exhibit B

TO Michael Wenerowicz
Regional Deputy Secretary
Ulli K
FROM Rev. Ulli Klemm, BTS designee
DATE January 22, 2020
RE Religious Accommodation Decision
Marvin Banks, ND5137 SCI BEN

As per DC-ADM 819, below is the decision concerning the status of a Religious Accommodation Request for the above inmate:

REQUEST: To be permitted to form a personal sacred bundle.

use Holt v. Hobbs

RESPONSE: Inmate's request to form a personal sacred bundle is denied for security reasons. The least restrictive alternative is to purchase a medicine bag from the Religious Articles Catalog.

not true because these are 2 totally different religious practices & religion requires for the specific

1/13/2019

26W

Reg. Deputy Secretary's Signature

Concur with recommendation

Do not concur with recommendation

2/1/2019

Date inmate sent copy of this decision by FCPD

FCPD Initials *u*

cc: Robert Marsh, Superintendent
Bradley Booher, DSCS
Jennifer Rossman, CCPM

Rev Matthew McCoy, FCPD
Fatih Akdemir, BTS

Exhibit C

The True Policy



(U.S. Department of Justice
Federal Bureau of Prisons)

Technical Reference

Please return this copy
to Marvin Banks
NO 5137
G-A-251

OPI: CPD
NUMBER: T5360.01
DATE: 3/27/2002
SUBJECT: Practical Guidelines
for Administration of
Inmate Religious
Beliefs and Practices

precedents

Inmate Religious Beliefs and Practices

Religious Beliefs and Practices

T5360.01

3/27/2002

Native American, Page 2

2. Depending on local tribal traditions, seasonal equinoxes and solstices are observed. These observances are usually accommodated at the next scheduled sacred sweat lodge ceremony.

D. RELIGIOUS HOLY DAYS

American Indian Days, September 24-25.

- These holy days were established by the Federal Government. These days are days free from work. Since there are so many different tribes, and each tribe observes holy days which have religious significance for its members, it is difficult to find common ground in establishing religious holy days.

Some tribes, for example, often ask to memorialize the "trail of tears" in late December or the Battle at Little Big Horn, June 25th. To encourage specific needs in the institution, it is recommended that opportunities to sweat in mourning may be appropriately accommodated. These days, however, should not be days of work proscription.

Because of the large variety of tribal beliefs represented in the inmate population, it is very difficult to be more specific than this. As requests are made of the chaplains, the institution chaplains are encouraged to contact the Regional Chaplaincy Administrator for further assistance.

2. RELIGIOUS ITEMS

A. PERSONAL RELIGIOUS ITEMS

- 1. Medicine bag (worn around neck); / not medicine bag bundle
- 2. Spiritual bundle containing:
 - Prayer pipe; — They denied & ~~such~~ Tracy Smith again
 - Feather;
 - Small amounts of sacred herbs (identified locally);
 - Small stones;
 - Sea shell; — They denied.
- 3. Beaded necklace; — They denied.
- 4. Religious medallion and chain;
- 5. Ribbon shirts; — I'll be asking for this next.
- 6. Headbands; and, —
- 7. Medicine wheel. — and this

shows precedents

Ribbon Shirt and Beaded necklace:

Ribbon shirts and beaded necklaces may be worn during Pow Wow's only.

argument 14th amendment equal protection

because the Jewish people have a shirt also so should we

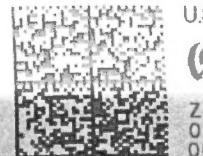
file with Pow Wow accommodation
so also put ribbon shirts for pow wow
crazy cow has them

different colors for our
specific spirit powers
white black, green, red, yellow
blue purple.

Marvin Banks #ND5137

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INMATE MAIL
PA DEPT OF
CORRECTIONS



XJ Benner
301 institution Dr.
Zellefante P.A. 16823

RECEIVED
HARRISBURG, PA
AUG 03 2020
MW
PER DEPUTY CLERK

United States District Court
Middle District of Pennsylvania,
228 Walnut Street.

P.O. Box 983
Harrisburg P.A. 17108